

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

TRISTAR INVESTORS, INC.,

Plaintiff,

v.

AMERICAN TOWER CORPORATION,  
AMERICAN TOWERS LLC, AMERICAN  
TOWERS INC., AMERICAN TOWER  
GUARANTOR SUB, LLC, AMERICAN  
TOWER HOLDING SUB, LLC, AMERICAN  
TOWER ASSET SUB, LLC, AMERICAN  
TOWER ASSET SUB II, LLC, AMERICAN  
TOWER MANAGEMENT, LLC,  
AMERICAN TOWER L.P., SPECTRASITE  
COMMUNICATIONS, LLC, and  
AMERICAN TOWER, LLC,

Defendants.

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AMERICAN TOWER, LLC, SPECTRASITE  
COMMUNICATIONS, LLC, and  
AMERICAN TOWERS, LLC,

Counter-Plaintiffs,

v.

TRISTAR INVESTORS, INC., DAVID IVY,  
ED WALLANDER, ROBERT GILES, DALE  
GILARDI, JERRY VOGL, JOHN  
LEMMON, MICHAEL MACKEY, and  
MATT NEWTON,

Counter-Defendants.

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CIVIL ACTION NO. 3:12-CV-499

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
FROM AGREED ORDER DATE**

**COMES NOW** American Tower Corporation, American Towers, LLC, American Towers, Inc., American Tower Guarantor Sub, LLC, American Tower Holding Sub, LLC, American Tower Asset Sub, LLC, American Tower Asset Sub II, LLC, American Tower Management, LLC, American Tower, L.P., Spectrasite Communications, LLC and American Tower, LLC (hereinafter collectively “American Tower”) and for their unopposed Motion, state as follows:

1. The parties have been in the process of completing their rolling document production and transitioning into witness depositions in this matter.
2. In response to TriStar’s production requests, American Tower has produced over 1.58 million pages of documents.
3. As part of the transition from production into depositions, the parties met and conferred on December 26, 2012 to discuss a date for the anticipated completion of American Tower’s rolling document production.
4. In light of the status of its production at the time, American Tower agreed to complete its remaining production by January 31, 2013. Pursuant to the discovery protocol in this matter, the parties entered into an agreed Order on January 7, 2013 that provided American Tower’s remaining document production would be completed by January 31, 2013. *See* ECF #76.
5. Since that time, American Tower produced an additional 548,000 pages of emails and documents by FTP site.
6. Last week, the undersigned discovered that a portion of American Tower’s emails previously collected were not produced to TriStar on January 8, 2013 as intended because a filter

for communications from attorneys employed by American Tower was applied to their communication with outside third parties.

7. The undersigned informed counsel for TriStar as soon as the issue was discovered and scope investigated, via a conference call on January 29, 2013.

8. American Tower's outside ESI vendor for this case, IRIS Data Service, is imaging and producing these remaining emails as quickly as possible, but the completion date will extend beyond the January 31, 2013 agreed date.

9. While the exact number of remaining documents is currently unknown, it is estimated that there are approximately 210,000 remaining documents.

10. After discussions with TriStar's counsel, to expedite the process, the parties agreed to a protocol for a rolling production of these remaining documents. Thus, IRIS is producing the remaining documents every few days, rather than producing them in one complete production. The first four of American Tower's custodians' remaining emails will be produced by IRIS within approximately one week, with at least one custodian's production later today.

**WHEREFORE**, American Tower respectfully requests the Court extend the date for completion of American Tower's document production of January 31, 2013, as contained in the agreed Order of January 7, 2013 (ECF# 76), through and including February 22, 2013.

Dated: January 31, 2013

Respectfully submitted,

/s/ Michael L. Nepple  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that on January 29 and 30, 2012, I conferred with Matthew Stammel, counsel for TriStar Investors, Inc. to discuss the issues raised in this Motion. The parties also exchanged their views on the issue in telephone conferences on January 29 and 30, 2012. Counsel was able to reach an agreement and, thus, this Motion is therefore being filed unopposed.

/s/ Michael L. Nepple  
Michael L. Nepple

**CERTIFICATE OF SERVICE**

On January 31, 2013, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by any other manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Michael L. Nepple  
Michael L. Nepple